IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Civil Revision No.6528 of 2006

Date of Decision: October 15, 2007

Ludhiana Improvement Trust .....Petitioner

Versus

Sham Kumar Kohli and another .....Respondents

CORAM:- HON'BLE MR.JUSTICE S. D. ANAND

Present: Mr.APS Mann, Advocate for the petitioner.

Mr.IK Mehta, Senior Advocate with
Mr.MS Kohli, Advocate for the respondents.

S. D. ANAND, J.

1. After both the parties had filed their respective pleadings at the trial, the plaintiff-respondents filed a plea under Order 11 Rule 12 of the Code of Civil Procedure for production of certain documents. On the filing of that plea, the defendant-petitioner was directed to file a reply, which (reply) was not filed inspite of the grant of a number of adjournments for the purpose aforementioned. It ultimately came to be filed on 1.3.2006 and the Court was informed on behalf of the defendant-petitioner that the documents would be filed on the next date of hearing. However, inspite of the grant of six effective opportunities thereafter, the documents were not placed on file. The learned Trial Court, vide the impugned order dated 4.8.2006, ordered the defence of defendants to be struck off for want of compliance with the orders of the Court.

2. There is force in the plea on behalf of the petitioner that the impugned order cannot be sustained, for the simple reason that though the learned Trial Court could have drawn whatever inference, adverse to the interest of defendant-petitioner, was feasible but the impugned order regarding the striking off the defence was not in accordance with law, particularly when the parties had already filed their pleadings and issues had also been framed at the trial.

3. In the light of the foregoing discussion, the petition shall stand allowed. The impugned order dated 4.8.2006 shall stand set aside. The learned Trial Court shall proceed with the trial in accordance with law. In the light of the nature of the controversy, the learned Trial Court is directed to dispose of the suit itself within a period of six months with effect from the next date of hearing. During that period, both the parties shall be afforded equal number of opportunities for concluding their evidence. If any party requires assistance of the Court in obtaining the presence of official witnesses, summonses in the context shall be issued. However, it shall be for the party concerned to ensure the effecting of service upon whichever witnesses are summoned by it.

(S. D. ANAND)
JUDGE

October 15, 2007
SRM

Note: Whether referred to reporter ? Yes/No